

Assembly Joint Resolution

No. 13

Introduced by Assembly Member Ammiano

April 2, 2009

Assembly Joint Resolution No. 13—Relative to blood donation.

LEGISLATIVE COUNSEL'S DIGEST

AJR 13, as introduced, Ammiano. Blood donation.

This measure would request that the President of the United States encourage, and that the Secretary of the United States Department of Health and Human Services adopt, policies that repeal the current discriminatory policies of the FDA regarding blood donation by gay, bisexual, transgender, and heterosexual males.

Fiscal committee: no.

1 WHEREAS, The California State Legislature encourages
2 nondiscrimination against individuals on the basis of actual or
3 perceived sex, sexual orientation, and gender identity and
4 expression; and

5 WHEREAS, The American Red Cross (ARC) has joined the
6 American Association for Blood Banks (AABB) and America's
7 Blood Centers (ABC) in asking for guidelines that treat all donors
8 equally; and

9 WHEREAS, The current federal Food and Drug Administration
10 (FDA) policy, passed in 1985, prohibits any man who has had sex
11 with another man since 1977 from donating blood for the rest of
12 his life; and

13 WHEREAS, The AABB, ABC, and ARC, on March 9, 2006,
14 at the Blood Products Advisory Committee of the FDA, at a

1 workshop titled “Behavior-Based Blood Donors Deferrals in the
2 Era of Nucleic Acid Testing (NAT),” issued a joint statement
3 affirming that they believe that the current lifetime deferral for
4 men who have had sex with other men is medically and
5 scientifically unwarranted and recommended that the deferral
6 criteria be modified and made comparable with criteria for other
7 groups at increased risk for sexual transmission of
8 transfusion-transmitted infections. Blood donors who are judged
9 to be at risk of exposure via heterosexual routes are deferred for
10 one year, while men who have had sex with another man even
11 once since 1977 are permanently deferred; and

12 WHEREAS, It does not appear rational to broadly differentiate
13 sexual transmission via male-to-male sexual activity from
14 transmission via heterosexual activity on scientific grounds. To
15 many, this differentiation is unfair and discriminatory, resulting
16 in negative attitudes to blood donor eligibility criteria, blood
17 collection facilities, and, in some cases, to the cancellation of blood
18 drives. The AABB, ABC, and ARC think that the FDA should
19 consider that the permanent deferral standard, which is seen as
20 scientifically marginal and unfair or discriminatory by individuals
21 with the identified characteristic, may motivate those individuals
22 to actively ignore the prohibition and provide blood collection
23 facilities with less accurate information; and

24 WHEREAS, Blood banks in the United States routinely operate
25 with a short blood supply. After significant disasters or national
26 emergencies, the AABB, ABC, and ARC have each reported
27 regions operating with less than two days supply of blood. Every
28 day, cancer patients, people with hemophilia, and others who need
29 regular blood transfusions rely on a readily available supply of
30 blood. During a crisis, the ability to collect blood in the affected
31 region is compromised while the need increases. The resulting
32 shortage could lead to catastrophic results; and

33 WHEREAS, The AABB, ABC, and ARC acknowledge the
34 concern that relaxation of deferral criteria may increase the number
35 of presenting donors who are HIV positive. However, this impact
36 has not been measured directly, it has only been modeled using
37 what may be incomplete assumptions. The blood collectors are
38 willing to assist in collecting data regarding the actual impact of
39 changes in the deferral, in order to allow for informed

1 decisionmaking, and for the development of additional, appropriate
2 interventions to ameliorate the impact; and

3 WHEREAS, In summary, the AABB, ABC, and ARC believe
4 that the deferral period for men who have had sex with other men
5 should be modified to be consistent with deferrals for those judged
6 to be at risk of infection via heterosexual routes and that this
7 consideration should also be extended to donors of human cells,
8 tissues, and cellular and tissue-based products; and

9 WHEREAS, FDA guidelines followed by blood banks
10 throughout the United States inadvertently discriminate against
11 gay, bisexual, transgender, and heterosexual males on the basis
12 that they have had sex with another male since 1977; and

13 WHEREAS, The AABB, ABC, and ARC are required to follow
14 the FDA guidelines, which consequently are in conflict with state
15 nondiscrimination policies; now, therefore, be it

16 *Resolved by the Assembly and the Senate of the State of*
17 *California, jointly,* That the California State Legislature calls upon
18 the President of the United States to encourage, and the Secretary
19 of the United States Department of Health and Human Services
20 to adopt, policies that repeal the current discriminatory policies of
21 the FDA regarding blood donation by men who have had sex with
22 other men; and be it further

23 *Resolved,* That the Chief Clerk of the Assembly transmit copies
24 of this resolution to the President and Vice President of the United
25 States, to the Secretary of the United States Department of Health
26 and Human Services, to the Speaker of the House of
27 Representatives, to the Majority Leader of the Senate, and to each
28 Senator and Representative from California in the Congress of the
29 United States.

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